

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS

Plaintiff

v.

CARDIAC SCIENCE, INC.

and

COMPLIENT CORPORATION

Defendants

Civil Action: **04-30126-MAP**

**PLAINTIFF'S ANSWER AND MEMORANDUM CONTROVERTING
DEFENDANT'S MOTION FOR DEFAULT JUDGMENT UNDER
FED.R.CIV.P.55(b)(2)**

INTRODUCTION

Plaintiff Donald C. Hutchins, ("Hutchins") moves this Court to deny Default Judgment on every claim brought against Plaintiff, and for Default Judgment on every declaratory judgment claim brought against Plaintiff by Defendant, Compliant Corporation ("Compliant") on grounds that:

I. Plaintiff, Donald C. Hutchins has answered Defendant's Counterclaims.

Hutchins has answered Defendant's Counterclaims and established that the Compliant Corporation filed the same Claims against Hutchins in Ohio Case Number CV-04-540066. Ohio CV-04-540066 is ongoing with trial scheduled for December 12, 2005 before Judge Eileen A. Gallagher.

II. Hutchins' Motion for Removal of these parallel claims from Ohio to this Court's jurisdiction was denied.

Hutchins filed a Motion for Removal of Civil Action 04-540066 from Common Pleas Court, Cuyahoga County, Ohio to this Court per Docketed 30 was opposed by Compliant [33]. Judge Michael A. Ponsor denied Hutchins' Motion for Removal. Therefore this Court left jurisdiction for resolving the identical claims that Compliant's has included in its Counterclaims with the Ohio State Court System.

III. Federal Rule of Civil Procedure 11(a) provides that every written motion be signed.

The Rule of Signature is governed in this district by Federal Rule of Civil Procedure 11(a). All parties are required to comply with this rule. The signature purported to be that of Attorney John J. Egan that accompanied this Motion is a forgery thereby nullifying Defendant's Motion for Default Judgment.

IV. There has been no Hearing as required by Fed.R.Civ.P.55(b)(2).

Civ.P.55(b)(2) specifies that, "If the party against whom judgment by default is sought has appeared in this action, the party shall be served with written notice of the application for judgment at least 3 days prior to the hearing on such application. If, in order to determine the amount of damages or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct hearings or order such references as it deems necessary and proper and shall accord a right of trial by jury when and as required by any statute of the United States."

Compliant's Motion for Default claims \$252,542 in damages from
Hutchins invoking Civ.P.55(b)(2)

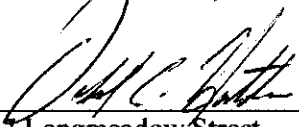
CONCLUSION

For the reasons set forth above Plaintiff respectfully submits that the Defendant,
Compliant Corporation is not entitled to Default Judgment on any claims at issue.

Respectfully submitted

The Plaintiff
Donald C. Hutchins, Pro Se

Dated: August 23, 2005



1047 Longmeadow Street
Longmeadow, Massachusetts 01106
(413) 567-0606
(413) 739-4060 (facsimile)

CERTIFICATE OF SERVICE

I, Donald C. Hutchins, 1047 Longmeadow Street, Longmeadow, Massachusetts 01106, hereby certify that I
served a copy of the foregoing on the appropriate party by sending a copy by first-class-mail to:

John J. Egan, Esq.
Egan, Flanagan and Cohen, P.C.
67 Market Street
P.O. Box 9035
Springfield, MA 01102-9035

Paul H. Rothschild, Esq.
Bacon & Wilson, P.C.
33 State Street
Springfield, MA 01103

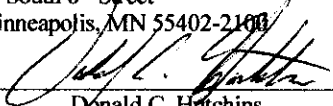
and

and

Colleen Moran O'Neil
Calfree, Halter & Griswold LLP
1400 McDonald Investment Center
800 Superior Avenue.
Cleveland, OH 44114-2688

Randall T. Skaar, Esq.
Patterson, Thorne, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

Dated: 8/23/05



Donald C. Hutchins